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3 **UNITED STATES DISTRICT COURT**
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5 **DISTRICT OF NEVADA**
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7 JOEL CARDENAS,

8 Petitioner,
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10 vs.

11 WARDEN NEVEN, et al.,
12

13 Respondents.
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Case No. 2:14-cv-02026-JAD-VCF

ORDER

[1, 2]

15 Petitioner has submitted an application to proceed in forma pauperis (#1) and a petition for a
16 writ of habeas corpus pursuant to 28 U.S.C. § 2254. The court finds that petitioner is unable to pay
17 the filing fee. The court has reviewed the petition pursuant to Rule 4 of the Rules Governing
18 Section 2254 Cases in the United States District Courts. The court will serve the petition upon
19 respondents for a response.

20 Petitioner has also filed a motion for appointment of counsel (#2). Whenever the court
21 determines that the interests of justice so require, counsel may be appointed to any financially
22 eligible person who is seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). “[T]he district
23 court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to
24 articulate his claims pro se in light of the complexity of the legal issues involved.” Weygandt v.
25 Look, 718 F.2d 952 (9th Cir. 1983). There is no constitutional right to counsel in federal habeas
26 proceedings. McCleskey v. Zant, 499 U.S. 467, 495 (1991). The factors to consider are not
27 separate from the underlying claims, but are intrinsically enmeshed with them. Weygandt, 718 F.2d
28 at 954. After reviewing the petition, the court finds that appointment of counsel is not warranted.

1 IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (#1) is
2 **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

3 IT IS FURTHER ORDERED that **the clerk of the court shall file the petition** for a writ of
4 habeas corpus pursuant to 28 U.S.C. § 2254.

5 IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (#2) is
6 **DENIED**.

7 IT IS FURTHER ORDERED that the clerk shall **add Adam Laxalt, Attorney General for**
8 **the State of Nevada, as counsel for respondents**.

9 IT IS FURTHER ORDERED that the clerk shall **electronically serve upon respondents a**
10 **copy of the petition and this order**. In addition, the clerk shall **return to petitioner a copy of the**
11 **petition**.

12 IT IS FURTHER ORDERED that respondents shall have 45 days from the date on which the
13 petition is served to answer or otherwise respond to the petition. Respondents must raise all
14 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
15 procedural default. Successive motions to dismiss will not be entertained. If respondents file and
16 serve an answer, then they must comply with Rule 5 of the Rules Governing Section 2254 Cases in
17 the United States District Courts, and then petitioner will have 45 days from the date on which the
18 answer is served to file a reply.

19 IT IS FURTHER ORDERED that any exhibits filed by the parties shall be filed with a
20 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments
21 that are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits
22 in the attachment. The hard copy of any additional state court record exhibits shall be
23 forwarded—for this case—to the staff attorneys in Las Vegas.

24 IT IS FURTHER ORDERED that, from this point forward, petitioner must serve upon
25 respondents or, if appearance has been entered by counsel, upon the attorney(s), a copy of every
26 pleading, motion or other document submitted for consideration by the court. Petitioner must
27 include with the original paper submitted for filing a certificate stating the date that a true and
28 correct copy of the document was mailed to the respondents or counsel for the respondents. The

1 court may disregard any paper received by a district judge or magistrate judge that has not been filed
2 with the clerk, and any paper received by a district judge, magistrate judge, or the clerk that fails to
3 include a certificate of service.

4 DATED: May 27, 2015

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7 JENNIFER A. DORSEY
8 United States District Judge
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